

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

BRYAN J. PESTA,	)	CASE NO. 1:23-CV-00546-DAP
	)	
Plaintiff,	)	JUDGE DAN AARON POLSTER
	)	
v.	)	
	)	
CLEVELAND STATE UNIVERSITY	)	<b>DEFENDANTS CLEVELAND STATE</b>
BOARD OF TRUSTEES, in their	)	<b>UNIVERSITY BOARD OF TRUSTEES,</b>
official capacities; LAURA	)	<b>LAURA BLOOMBERG, HARLAN M.</b>
BLOOMBERG, in her individual and	)	<b>SANDS, BENJAMIN WARD, CHRISTOPHER</b>
official capacity; HARLAN M.	)	<b>MALLET, CONOR McLENNAN, AND</b>
SANDS, BENJAMIN WARD,	)	<b>WENDY REGOECZI'S FIRST SET OF</b>
CHRISTOPHER MALLET, CONOR	)	<b>REQUESTS FOR PRODUCTION OF</b>
McLENNAN, and WENDY	)	<b>DOCUMENTS TO PLAINTIFF</b>
REGOECZI, in their individual	)	
capacities,	)	
	)	
Defendants.		

**PLAINTIFF'S RESPONSE TO DEFENDANTS'  
FIRST REQUESTS FOR DOCUMENTS**

***Request No. 1:*** Any and all documents consulted or used by you in any way in responding to any Interrogatories in this matter, including any documents identified in response to, or used by you in formulating your responses to, any Interrogatory.

**Response:**

Plaintiff refers to the documents contained or referenced in CSU's "Final Report" PDF file, which are already in your possession; in addition please see the Doc Demand 1 file in Sharefile.

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***Request No. 2:*** Any and all documents, including printouts and screenshots, relating to any websites and/or social media accounts with which you are affiliated or on which you have posted a comment, profile, or other information concerning or relating to "Global Ancestry and Cognitive Ability," the investigation of you by Defendants, your termination from Cleveland State University, and the facts and allegations in the Amended Complaint.

**Response:**



Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney client, attorney work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers to:

- The (dormant) funding campaign (<https://givesendgo.com/G9END>) regarding his termination.
- This article, published on Undark.org: <https://race.undark.org/articles/drapers-millions-the-philanthropic-wellspring-of-modern-race-science>.
- In addition, please see the please see the Doc Demand 2 file in Sharefile.

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***Request No. 3:*** Any and all documents supplied to, or received from, any experts and all reports or other studies prepared by any experts.

**Response:**

(1) Objection. Pursuant to FRCP 26 (b)(4)(D) experts employed only for trial preparation are not discoverable. When Plaintiff has settled on trial experts, he will make disclosure in accordance with FRCP 26(a)(2)(B) and (C).

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***Request No. 4:*** Any and all documents which relate to the personal, educational, vocational, and employment history of each person you expect to call as an expert witness in the trial of this matter, including but not limited to a curriculum vitae or resume for each such person.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up matters wholly unrelated to what is discoverable pursuant to FRCP 26(a)(2)(B) and (C). Nevertheless, when Plaintiff has settled on trial experts, he will make disclosure in accordance with FRCP 26(a)(2)(B) and (C).

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***Request No. 5:*** Any and all correspondence between you and your expert witnesses.

**Response:**

Objection. Pursuant to FRCP 26 (b)(4)(D) experts employed only for trial preparation are not discoverable. When Plaintiff has settled on trial experts, he will make disclosure in accordance with FRCP 26(a)(2)(B) and (C).

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***Request No. 6:*** Any and all documents which you intend to introduce as exhibits or otherwise use at any hearing, deposition, or trial of this matter.

**Response:**

- Any document either uploaded or referenced in the Plaintiff or Defendants' Initial Disclosures, and Plaintiff's or Defendants' Discovery Responses.
- In addition, here is a video interview featuring Pesta Censor Kevin Bird from a 2018 podcast readily available on the internet. Comments relevant to Pesta's case appear between 35:35 and 40:57 (see especially 39:40 to 40:57) in this video:

<https://www.youtube.com/watch?v=NeINSQvz3Z0&t=2380s>

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***Request No. 7:*** Any and all documents described, referred to, identified in, or supporting the Amended Complaint or any allegations in the Amended Complaint, including but not limited to all written statements from or drafted by any person concerning the subject matter of the Amended Complaint or upon which you rely or may rely in support of your claims in this matter.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney client, attorney work product, and employee-union representative privileged matters.

Without waiving said objection, please see the response to Request 6 above.

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***Request No. 8:*** Any and all written or recorded statements which support or evidence the facts or allegations set forth in your Amended Complaint.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, please see the response to Request 6 above.

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***Request No. 9:*** Any and all documents or notes, including notes made to yourself and notes made contemporaneously with the events alleged in the Amended Complaint, created in connection with or as a result of any correspondence, conversation, or communication between you and Defendants or any of their agents which relate to, reference, or support in any way the facts or allegations set forth in your Amended Complaint or your claims for damages.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney client, attorney-work product, and employee-union representative privileged matters.

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***Request No. 10:*** Any and all documents, including correspondence, texts, and/or email, exchanged between you and any agent, employee, contractor, or representative of the National Institutes of Health which relate to or reference your request for data as alleged in the Amended Complaint.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, please see the Doc Demand 10 file in Sharefile. Note that any redactions appearing therein are those of the NIH, rather than Plaintiff.

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***Request No. 11:*** Any and all documents, including correspondence, texts, and email, exchanged between you and any coauthors, contributors, colleagues, research assistants, graduate assistants, or teaching assistants related to the investigation of you by the National Institutes of Health and Defendants concerning your research in “Global Ancestry and Cognitive Ability.”

**Response:**

Please see the Doc Demand 11 in Sharefile.

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***Request No. 12:*** Any and all documents including, but not limited to, documents maintained in an electronic mail folder or electronic mail account which relate to or reference any of the allegations set forth in the Amended Complaint.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, please see the Doc Demand 12 in Sharefile.

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***Request No. 13:*** Any and all documents including, but not limited to, documents maintained in an electronic mail folder or electronic mail account which embody, evidence, relate to, or reference your allegation that complaints made to Defendants by Dr. Jedidiah Carlson, Dr. Cathryn Townsend, Kevin Bird, Os Keyes, Liam O'Brien, the Student Socialist Society, and Theo Desmond motivated Defendants to censor you, as alleged in Amended Complaint.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, please see the Final Report produced by Defendants (particularly the transcript of the interview with Pesta's Censors), as well as the letters of Defendant Bloomberg dated January 13, 2022 and February 28, 2022.

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***Request No. 14:*** Any and all documents which in any way demonstrate, support, or evidence the damages or injuries you are claiming in this lawsuit.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, plaintiff refers to the documents produced in his Initial Disclosures and Supplements thereto, as well as the documents proffered in Doc Demand No. 14 of Sharefile.

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***Request No. 15:*** Any and all documents that relate to, reference, or evidence any costs, expenses, or monetary losses that you believe you have incurred to date as a result of the facts or allegations set forth in your Amended Complaint.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, plaintiff refers to the documents produced in his Initial Disclosures and Supplements thereto.

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***Request No. 16:** Any and all documents which in any way relate to, reference, embody, or support your allegations about your meeting with Dean Kenneth Kahn, as alleged in the Amended Complaint.*

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers to the FIRE Letters dated October 7, 2020 and November 18, 2020, as well as CSU's response dated October 16, 2020 (by Sonali Wilson, Esq.), as well the document provided in Doc Demand 16 in Sharefile.

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***Request No. 17:** Any and all documents retained by you which in any way relate to, reference, or embody the National Institutes of Health policies governing controlled-access data from the database of Genotypes and Phenotypes, the NIH Data Use Certification Agreement, and any investigation or proceedings of the NIH.*

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Plaintiff refers the Final Report and any documents referenced therein, as well as the documents proffered in Doc Demand 10 file in Sharefile.

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***Request No. 18:** Any and all documents which in any way relate to, reference, embody, or support your allegation that the investigation of your part in "Global Ancestry and Cognitive Ability" by Defendants was motivated by viewpoint discrimination as alleged in the Amended Complaint.*

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers the Final Report and any documents referenced therein.

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*Request No. 19: Any and all documents which in any way relate to, reference, embody, or support your allegations about Dr. Kent Taylor in the Amended Complaint.*

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers to the Final Report and any documents referenced therein.

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*Request No. 20: Any and all documents which in any way relate to, reference, embody, or support your allegation that the Cleveland State University committee convened to investigate your role in "Global Ancestry and Cognitive Ability" recommended your termination from the University.*

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers to the Final Report and any documents referenced therein.

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***Request No. 21:*** Any and all documents embodying, referencing, or relating to IRB review or approval of your research in “Global Ancestry and Cognitive Ability.”

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers to the Final Report and any documents referenced therein. In particular, see the Final Report PDF (p. 7):

Authorized Access

- Data access provided by: dbGaP Authorized Access
- Release Date: May 17, 2018
- Embargo Release Date: May 17, 2018
- Data Use Certification Requirements (DUC)
- Public Posting of Genomic Summary Results: Allowed
- Use Restrictions

Consent group	Is IRB required?	Data Access Committee	Number of participants
General Research Use (NPU)	No	Joint Addiction, Aging, and Mental Health DAC (JAAMH-DAC@list.nih.gov )	9496

Plaintiff also refers to the documents proffered in Doc Demand Nos. 1 and 6 of Sharefile.

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***Request No. 22:*** Any and all documents which in any way relate to, reference, or embody research funding or funding requests related to your research in “Global Ancestry and Cognitive Ability.”

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers to his response to Interrogatory No. 5.

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***Request No. 23:*** Any and all documents which in any way relate to, reference, embody, or support your allegation that you were treated differently from any other professor or researcher at Cleveland State University in the same or similar circumstances as you.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers to the Final Report and to any documents referenced therein.

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***Request No. 24:*** Any and all documents which in any way relate to, reference, embody, or support your allegations about each interview or meeting with the Cleveland State University investigation committee on September 7, 2021, September 30, 2021, October 5, 2021, and October 11, 2021, as alleged in the Amended Complaint.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers to the Final Report and to any documents referenced therein.

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***Request No. 25:*** Any and all documents which in any way relate to, reference, embody, or support your allegation that President Sands received two letters from the Foundation for Individual Rights and Expression (FIRE), as alleged in the Amended Complaint.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers to the two letters from FIRE dated October 7, 2020 and November 18, 2020, as well as CSU General Counsel's letter dated October 16, 2020 uploaded in Doc Demand No. 1 of Sharefile.

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***Request No. 26:*** Any and all documents which in any way relate to, reference, embody, or support your allegations that the Cleveland State University Board of Trustees or its individual members in their official capacities engaged in viewpoint discrimination, as alleged in Count III of the Amended Complaint.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers to his email to Stever Kirk in Doc Demand No. 1 of Sharefile.

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***Request No. 27:*** Any and all documents which in any way relate to, reference, or embody, or support your defenses in any of the proceedings initiated by the National Institutes of Health and Cleveland State University based on your research in “Global Ancestry and Cognitive Ability.”

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers to the Final Report and to any documents referenced therein, as well as the documents proffered in Doc Demand 10 file in Sharefile.

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***Request No. 28:*** Any and all documents which in any way relate to, reference, embody, or support your request for punitive damages.

**Response:**

Objection. This demand as written is vague, but appears goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

Without waiving said objection, Plaintiff refers to the Final Report and to any documents referenced therein, as well as the documents proffered in Doc Demands 1 and 10 file in Sharefile.

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***Request No. 29:** Any and all documents which in any way relate to, refer to, or evidence communications, including texts and email, between you and any representative of the CSU AAUP concerning the investigation of you and your termination.*

**Response:**

Objection. This demand as written is vague, but clearly goes considerably beyond the relevancy standard of FRCP 26(b) and would appear to sweep up even attorney-client, attorney-work product, and employee-union representative privileged matters.

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***Request No. 30:** All documents received by you from third parties that relate to this case, including but not limited to documents received in response to subpoenas issued in this case or obtained from third parties through any other means.*

**Response:**

Plaintiff refers to the documents proffered in Doc Demands 11 and 12 file in Sharefile.

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***Request No. 31:** All correspondence between you and any third parties that relate to or were part of subpoenas issued in this case or any other requests for documents.*

**Response:**

Plaintiff refers to the documents proffered in Doc Demand 10 and 31 in Sharefile **Note.** there is a password for one of them: File NIH FOIA 57857: Password: “57857finalresponse”.

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***Request No. 32:** Any and all publications authored or co-authored by you.*

**Response:**

Plaintiff has 44 of these, and rather than individually upload all of them here, we refer you to his Google Scholar page where all such publications are listed. A solid majority of the 44 listings on

Google Scholar have links directly to said article(s). If you desire the entire articles for any listings without direct links, kindly advise and we will produce them for you.

<https://scholar.google.com/citations?user=YoRL-NQAAAAAJ&hl=en>

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***Request No. 33: Your current curriculum vitae.***

**Response:**

Plaintiff refers to the document proffered in Doc Demands 33 in Sharefile.

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***Request No. 34: To the extent not already produced in response to one of the above document requests, any and all documents which relate to, refer to, embody, or support the subject matter of the Amended Complaint or upon which you rely or may rely in support of your claims.***

**Response**

Subject to the objections interposed above, none.

Dated: Goshen, New York  
January 16, 2024

/s/ Frederick C Kelly  
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